IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.953 OF 2006

Shri Ajitsingh Ukhasingh Pardesi ...Appellant

Versus

The Chief Administrative Officer,
City & Industrial Development & Ors. ...Respondents

Ms Prafulla Shah for the Appellant.

CORAM : ABHAY S.OKA, J.
DATED : JULY 06, 2007.

P.C.:

1. The Appellant is the original Plaintiff. The suit filed by the Appellant-Plaintiff for declaration and injunction is partly decreed by the trial Court. The trial court dismissed the prayer for declaration of ownership. However, the trial Court granted injunction for protecting the possession of the Appellant.

2. Appeals were preferred in the District Court by all the parties i.e by the Appellant-Plaintiff and by the first and second Respondents herein. By a common judgment, all the three Appeals have been dismissed by the Appellate Court.

3. Shri Shah appearing for the Appellant submitted that even according to the case of the first Respondent, the acquisition proceedings were initiated much after

the Appellant purchased the suit property from the true owner. He submitted that no evidence was led by any of the Defendants to prove the factum of acquisition and the fact that there was a vesting of the suit property in favour of the first Respondent. He, therefore, submitted that the decree for declaration ought to have been passed by the Courts below.

4. I have considered the submissions. Perusal of the evidence of the Appellant and the findings recorded by the Courts below show that there is no dispute about the fact that subsequent to the purchase of the property by the Appellant, the acquisition proceedings were initiated for the benefit of the first Respondent and the proceedings were completed. It is an admitted position that the Appellant-Plaintiff, as of today, has not challenged the acquisition proceedings. In view of the well settled position of law, the acquisition proceedings could not have been challenged in a civil suit. Therefore, no fault can be found with the approach of the Courts below when the relief of declaration of ownership was denied to the Appellant. No substantial question of law arises. Second Appeal is dismissed.

JUDGE